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8 **BEFORE THE**  
9 **CALIFORNIA BOARD OF OCCUPATIONAL THERAPY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
Against:

Case No. AL 2007-227

13 **STATEMENT OF ISSUES**

14 **AMY FAIRBROTHER ROGERS,**  
15 **a.k.a. AMY ROGERS**  
**2010 Shady Lane**

16 **Novato, CA 94945**

17 Respondent.

18 Complainant alleges:

19 **PARTIES**

20 1. Heather Martin ("Complainant") brings this Statement of Issues solely in her official  
21 capacity as the Executive Officer of the California Board of Occupational Therapy ("Board"),  
22 Department of Consumer Affairs.

23 2. On or about July 30, 2008, the Board received an application for an occupational  
24 therapist license from Amy Fairbrother Rogers, also known as Amy Rogers ("Respondent"). On  
25 or about July 21, 2008, Respondent certified under penalty of perjury that all of the information  
26 contained in the application was true and correct. The Board denied the application on March 23,  
27 2009.  
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### STATUTORY AND REGULATORY PROVISIONS

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4 3. Business and Professions Code ("Code") section 2570.26, subdivision (a), states that  
5 "[t]he board may, after a hearing, deny, suspend, revoke, or place on probation a license,  
6 certificate, inactive license, inactive certificate, or limited permit".

7 4. Code section 2570.28 states:, pertinent part:

8 The board may deny or discipline a licensee for any of the following:

9 . . . .

10 (c) Violating or attempting to violate, directly or indirectly, or assisting in  
11 or abetting the violation of, or conspiring to violate, any provision or term of this  
chapter or any regulation adopted pursuant to this chapter . . .

12 5. Code section 2570.3, subdivision (a), states:

13 No person shall practice occupational therapy or hold himself or herself  
14 out as an occupational therapist or as being able to practice occupational therapy, or  
to render occupational therapy services in this state unless he or she is licensed as an  
15 occupational therapist under the provisions of this chapter. No person shall hold  
himself or herself out as an occupational therapy assistant or work as an occupational  
16 therapy assistant under the supervision of an occupational therapist unless he or she is  
certified as an occupational therapy assistant under the provisions of this chapter.

17 6. Code section 2570.6 states, in pertinent part:

18 An applicant applying for a license as an occupational therapist or  
19 certification as an occupational therapy assistant shall file with the board a written  
application provided by the board, showing to the satisfaction of the board that he or  
20 she meets all of the following requirements:

21 . . . .

22 (c) That the applicant has successfully completed a period of supervised  
fieldwork experience approved by the board and arranged by a recognized  
23 educational institution where he or she met the academic requirements of subdivision  
(b) or arranged by a nationally recognized professional association . . .

24 7. Code section 2570.18. states, in pertinent part:

25 (a) On and after January 1, 2003, a person shall not represent to the public  
26 by title, by description of services, methods, or procedures, or otherwise, that the  
person is authorized to practice occupational therapy in this state, unless authorized to  
27 practice occupational therapy under this chapter.

28 (b) Unless licensed to practice as an occupational therapist under this  
chapter, a person may not use the professional abbreviations "O.T.," "O.T.R.," or

"O.T.R./L.," or "Occupational Therapist," or "Occupational Therapist Registered," or any other words, letters, or symbols with the intent to represent that the person practices or is authorized to practice occupational therapy . . .

8. Code section 480 states, in pertinent part:

(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

.....

(3)(A) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the business or profession for which application is made . . .

9. California Code of Regulations, title 16, section ("Regulation") 4170 states, in pertinent part:

.....

(d) Occupational therapy practitioners shall perform occupational therapy services only when they are qualified by education, training, and experience to do so.

(1) Occupational therapy practitioners shall hold the appropriate credentials for the services they provide . . .

10. Regulation 4180 states, in pertinent part:

In addition to the definitions found in Business and Professions Code sections 2570.2 and 2570.3 the following terms are used and defined herein:

.....

(c) "Level II student" means an occupational therapy or occupational therapy assistant student participating in delivering occupational therapy services to clients with the goal of developing competent, entry-level practitioners . . .

### FIRST CAUSE FOR DENIAL

#### (Practice of Occupational Therapy While Unlicensed)

11. Respondent's application for an occupational therapist license is subject to denial pursuant to Code sections 2570.28, subdivision (c), and 480, subdivision (a)(3)(A), in that Respondent practiced occupational therapy, or held herself out as an occupational therapist or as being able to practice occupational therapy or to render occupational therapy services when she

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3 was not licensed as an occupational therapist in this state, in violation of Code section 2570.3,  
4 subdivision (a), and Regulation 4170, subdivision (d)(1), as follows:

5 a. In and between January 2003, and August 2008, Respondent served as an  
6 occupational therapy educator and provided direct supervision to several Level II occupational  
7 therapy field work students enrolled at Dominican University of California, and provided  
8 occupational therapy services at Buckelew Programs/Linda Reed Day Services, San Rafael,  
9 California, while employed as a counselor, and at Buckelew Employment Services, San Rafael, as  
10 an employment specialist.

11 b. In and between August 2007, and December 2007, Respondent assisted with the  
12 Foundations of Occupational Therapy lab as an adjunct professor at Dominican University.

13 **SECOND CAUSE FOR DENIAL**

14 **(Misrepresentation)**

15 12. Respondent's application for an occupational therapist license is subject to denial  
16 pursuant to Code sections 2570.28, subdivision (c), and 480, subdivision (a)(3)(A), in that  
17 Respondent represented to the public by title that she was authorized to practice occupational  
18 therapy in this state and used the professional abbreviations O.T.R. and O.T.R./L, in violation of  
19 Code section 2570.18, as follows: Respondent used the professional abbreviations identified  
20 above in preparing or completing Verification of Level II Fieldwork Supervision forms on behalf  
21 of various occupational therapy field work students enrolled at Dominican University.

22 **PRAYER**

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the California Board of Occupational Therapy issue a decision:

25 1. Denying the application of Amy Fairbrother Rogers, also known as Amy Rogers, for  
26 an occupational therapist license ;

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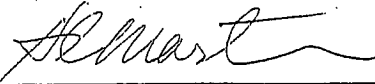
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3 2. Taking such other and further action as deemed necessary and proper.

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5 DATED:

June 23, 2009



HEATHER MARTIN

Executive Officer

California Board of Occupational Therapy

Department of Consumer Affairs

State of California

Complainant

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